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WASHINGTON, D.C. 20231
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Intellectual Property Group
11682 El Camino Real
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San Diego, CA 92130

In re Application of	:	
BOURDON, Mario A., et al.	:	
Application No.: 09/701,162	:	DECISION ON
PCT No.: PCT/US98/25791	:	
Int. Filing Date: 04 December 1998	:	PETITION UNDER
Priority Date: 05 December 1997	:	
Attorney Docket No.: LJEM110-1	:	37 CFR 1.47(a)
For: INHIBITION OF TUMOR GROWTH BY	:	
MACROPHAGE INTERVENTION	:	

This is a decision on applicants' "Response to Notification of Defective Reply," filed in the United States Patent and Trademark Office (USPTO) on 31 October 2002.

BACKGROUND

On 04 December 1998, applicants filed international application PCT/US98/25791, which claimed a priority date of 05 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 June 1999, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2000.

On 22 November 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and petition to revive.

On 08 February 2001, USPTO mailed a petition decision granting applicants' petition to revive.

On 05 April 2001, USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 05 September 2001, applicants submitted a petition under 37 CFR 1.47, which was accompanied by, *inter alia*, a petition for a three-month extension of time; the fee for a three-month extension of time; a declaration executed by four of the five inventors; a statement by Mario Bourdon; a certified mail receipt and a copy of letter to Dr. Per Borgström from Mario Bourdon.

On 05 February 2002, the office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing the petition without prejudice.

On 02 April 2002, applicants submitted "Renewed Petition Under 37 CFR §1.47(a)."

On 26 April 2002, the Office mailed Decision On Petition Under 37 CFR 1.47(a) dismissing applicants petition without prejudice.

On 23 May 2002, applicants submitted "Second Renewed Petition Under 37 CFR §1.47(a)."

On 07 June 2002, the Office mailed Notification of Defective Reply.

On 21 June 2002, applicants submitted "Third Renewed Petition Under 37 CFR §1.47(a)."

On 12 July 2002, the Office mailed Notification of Defective Reply to the San Diego address, vacating the 07 June 2002 Notification, as it had been sent to an outdated address.

On 04 October 2002, the Office mailed Notification of Defective Reply vacating the 12 July 2002 Notification as it was mailed prior to the 21 June 2002 response being matched with the file, but still requiring a declaration in compliance with 37 CFR 1.497(a)-(b).

On 31 October 2002, applicants submitted "Response to Notification of Defective Reply," accompanied by a fourth renewed petition under 37 CFR 1.47(a) and two declarations.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (2) and (3) were previously met.

Item (4) has now been met. The declarations submitted on 31 October 2002 comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is GRANTED.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371 date of 31 October 2002.



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For: INHIBITION OF TUMOR GROWTH BY MACROPHAGE INTERVENTION

Dear Mr. Borgström:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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